

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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EMPIRE HOME SERVICES, L.L.C.,

Plaintiff/Counter-Defendant,

v.

Case No. 05-CV-72584-DT

EMPIRE IRON WORKS, INC.,

Defendant/Counter-Plaintiff.

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**ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S MOTIONS FOR  
SUMMARY JUDGMENT AND SETTING DATES**

On May 30, 2006, the court conducted a telephone conference in the above-captioned matter. During the conference, the court discussed with the parties the general outline this case should take as it progresses to trial. Specifically, the parties requested an additional 60 days of discovery, which will be followed by possible dispositive motions. The court suggested, and the parties did not disagree that all pending dispositive motions should be denied without prejudice and re-filed, if necessary, at the conclusion of discovery. Each side will be allowed one dispositive motion, which should include all theories of relief. Additionally, Plaintiff stated that it would be filing a motion to amend its complaint within the next week, which Defendant will oppose. The parties also disagree as to whether Defendant has withdrawn its jury demand. In accordance with the outline discussed during the telephone conference,

IT IS ORDERED that any motion to amend shall be filed by **June 5, 2006**. The motion to amend should clearly indicate whether a jury trial is demanded. A response shall be filed by **June 12, 2006**. The response should state the reasons for opposing

the motion to amend, including specific allegations of any prejudice. In the event the motion is granted, the court will require Defendant to file its Amended Answer within three days after the issuance of the order granting the motion, and Defendant will be required to clearly indicate whether a jury trial is demanded.

IT IS FURTHER ORDERED that all discovery shall be concluded by **August 4, 2006**,<sup>1</sup> and any dispositive motion shall be filed by **September 1, 2006**.<sup>2</sup>

Finally, IT IS ORDERED that the two pending motions for summary judgment [Dkt. ## 30 & 34] are DENIED WITHOUT PREJUDICE.

S/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: June 2, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 2, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522

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<sup>1</sup>The parties are instructed to continue their discovery efforts pending resolution of the motion to amend.

<sup>2</sup>The parties should refer to the court's standard practice guidelines before filing any motion or response under Federal Rule of Civil Procedure 56, which can be found at [http://www.mied.uscourts.gov/\\_practices/Cleland/schedorder.htm](http://www.mied.uscourts.gov/_practices/Cleland/schedorder.htm).